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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,566	04/16/2004	Paolo Salvoni	785-011775-US (PAR)	2095
2512	7590	05/23/2005	EXAMINER	
PERMAN & GREEN			HUYNH, LOUIS K	
425 POST ROAD			ART UNIT	
FAIRFIELD, CT 06824			PAPER NUMBER	

3721

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/826,566

Applicant(s)

SALVONI, PAOLO

Examiner

Louis K. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the control unit (claim 1), and the pusher arms (claim 6) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Note that part (16) from the corrected formal drawings filed 05/05/2005 does not appears to be associated with multiple containers on the accumulation conveyor, part 16 appears to be associated with the middle container only.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

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and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 8-14: “further comprises a first sensor adjacent the feeder conveyor, for detecting, the container and a control unit,...” is confusing. Applicant is respectfully requested to review and amend the claim to place the comas at proper places.

Claim 3, line 6: “container 1” lack proper antecedent basis.

Claim 3, line 7: “as well” is indefinite for it is unclear as well as what applicant is referring.

Claim 8, lines 1-3: “the first sensor is in the end-zone of the feeder conveyor, detecting, the front edge, of the container” is confusing. Applicant is respectfully requested to review and amend the claim to place the commas at proper places.

Claim 9, line 3: “preferably” render the claim indefinite for it is unclear whether the limitations following the phrase are part of the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Shanklin et al. (US 5,097,939).

With respect to Claims 1, 8 and 9, Shanklin discloses a product feed system for feeding products to be processed by a processing unit such as a form-fill-seal machine positioned downstream of the feed system (col. 1, lines 18-34); wherein the feed system includes a feeder conveyor (20) driven by a motor (91), a transfer conveyor (30) driven by a motor (36), a sensor (61) for sensing the leading edge of the product (A) and connected to a servo controller (92), a transducer (51) for sensing the speed of the feed conveyor; wherein the speed of the feeder conveyor (20) and the transfer conveyor (30) are synchronized during the handing over of the product (A) from the feeder conveyor to the transfer conveyor (30) (col. 7, lines 7-27).

With respect to Claim 4, the motor (31) is a servo motor (FIG. 7).

With respect to Claim 5, the feeder conveyor (20) is operated at continuous and random speed (col. 7, line 56 – col. 8, line 2).

With respect to Claim 6, the system of Shanklin further includes pusher arms (49) for detachably associating with the product (a) to transfer the product (A) to the form-fill-seal machine.

With respect to Claim 7, note that the transfer conveyor stands still, it does not move up, down or sideways, when the pusher arms (49) transfer the product to the form-fill-seal machine.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shanklin et al. (US 5,097,939).

The system of Shanklin meets all of applicant's claimed subject matter but lacks the specific teaching of a second sensor for detecting the distance between the products in order to control the speed of the feeder conveyor. However, the sensor (61) in the system of Shanklin is used for such purpose (col. 13, lines 37-64). Therefore, it would have been obvious to an ordinary skilled person in the art, at the time the invention was made, to have modified the system of Shanklin by having provided an additional and separate sensor for detecting the distance between the products since it involves only routine skill in the art to accomplish the same result.

***Response to Arguments***

10. Applicant's arguments filed 05/05/2005 have been fully considered but they are not persuasive.
11. Applicant contends that the speed of the accumulation conveyor being varied without changing the speed of the feed conveyor in the present application distinguishes the claimed invention over the reference to Shanklin (US 5,097,939). This not found persuasive because claim 1 recites: "...a control unit, which controls the motor means such that the desired gap is

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created between two adjacent containers on the accumulation conveyor...” the claim language is neither expressly reciting nor implying that the speed of the accumulation conveyor being varied without changing the speed of the feed conveyor in the claim; therefore, the reference of Shanklin anticipates the claimed invention by controlling the motor (91) to vary the speed of the feed conveyor (20) in order to release the product (A) within the desired space (50) to create the desired gap between two products.

12. Applicant further contends that the speed of the accumulation conveyor and of the feed conveyor are synchronized during at least a partial handing over of the containers as claimed in claim 1; whereas, the reference to Shanklin teaches that the speed of the feed conveyor (20) is necessarily different from the speed of the transfer conveyor (30). However, synchronizing the speeds of the conveyors is not necessarily equalizing the speeds. Thus, for as long as the conveyors operate in synchronism as described in col. 7, lines 7-27, the reference to Shanklin anticipates the claimed invention as claimed.

### ***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

14. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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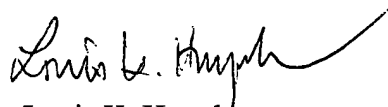
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (571) 272-4462.

The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Louis K. Huynh  
PRIMARY EXAMINER  
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May 18, 2005